State of Alaska
Department of Labor and Workforce Development

Division: Business Partnerships	**Policy:** 210.00
Subject: Property Management	**Pages:** 6
References: Alaska Statutes: Title 36, Chapter 30 ; 29 Code of Federal Regulations (CFR) Part 95.30-37, Part 97.25(e) , and Part 97.31-34; Americans with Disabilities Act of 1990; Section 504, Rehabilitation Act of 1973; 37 CFR Part 401; Office of Management and Budget (OMB) Circulars: A-87, Attachment B, Item 15, A-102, A-110, and A-122.	**Effective:** 7/01/05 **Revised:** 01/01/14
Approved: Wanetta Ayers Wanetta Ayers, Director	12/26/13 Date

1) **Parties Affected**

This policy applies to grant recipients that receive public funds through the Division of Business Partnerships.

2) **Purpose**

This policy provides guidance on the treatment of real and personal property acquired, in whole or in part, with public funds. This policy also provides guidance on the ownership and disposition of such property.

3) **Definitions**

a) *Acquisition Cost* is the total cost associated with the construction or purchase of a facility or equipment. For facilities, acquisition cost does not include the cost of the land upon which the facility stands. For equipment, acquisition costs includes the cost of the equipment and any additions or accessories included at the time of purchase, including the cost of delivery to the place of use and any installation or set-up costs.

b) *Equipment* is defined as tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit, including all costs related to the property's intended use.

c) *Expendable* refers to items that can be consumed in use and are not reusable

d) *Funds* are defined as any funding appropriated or authorized by the Alaska State Legislature.

e) *Intangible Personal Property* is an item of value that is not physical, such as inventions, patents, data, publication, trademarks, or copyrights that are produced or acquired, in whole or in part, through the use of funds.

f) *Inventory List* is a continually maintained compilation of non-expendable and expendable tangible personal property, as described in this policy, owned by a grant recipient and which is updated when new property is received or when property is no longer available for use by the grant recipient.

g) *Non-expendable* refers to items (e.g., equipment, furniture and tools) that are not consumed, and which retain their original identity and characteristics during their useful life.

h) *Non-governmental Entities* are organizations that are not associated with or a part of a government and may include non-profit organizations and commercial organizations.

i) *Other Governmental Entities* are governmental entities other than the DBP and may include other state agencies, local governments, and tribal governments.

j) *Physical Inventory* is a process of physically checking the continued availability of items of value by verifying the various items on an inventory list are physically present at a specified location and are in operable condition.

k) *Prior Approval* is documentation evidencing consent prior to incurring a specific cost.

l) *Real Property* is a physical item of value that has a long-term useful life, such as land, buildings and improvements, excluding movable machinery and equipment.

m) *Recipient* or Grant *Recipient* is any person or entity that receives funds.

n) *Tangible Personal Property* is a physical item of value that is either non-expendable equipment, or expendable supplies.

4) **Policy**

Recipients of funds will comply with the property management requirements set forth in this policy.

5) **Requirements**

a) Real Property Requirements

i) With limited exceptions, the purchase or construction of real property is prohibited under DBP grant programs, unless certain conditions are met. These exceptions are:

(1) Expenses specifically authorized by the Alaska Department of Labor and Workforce Development (DLWD).

(2) Requirements for physical and programmatic accessibility and reasonable accommodation required by the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973, as amended.

(3) Repairs, alterations, and capital improvements of DLWD, Employment Security Division-owned real property or Job Center property.

(4) Job Corps facilities.

(5) Disaster relief employment projects.

(6) Temporary or permanent buildings or facilities resulting from funded training activities.

ii) The purchase or construction of real property through the use of funds requires the prior written approval of the Division Director. Failure to obtain this prior approval may result in any purchase or construction costs not being allowed and subject to repayment of grant funds to the State of Alaska.

b) Non-Expendable Tangible Personal Property – Equipment

i.) Grant Recipients receiving funds must obtain the prior written approval of the Division Director before using those funds to purchase equipment. These provisions do not apply if the equipment was not purchased with funds at the time of acquisition, but a depreciation expense is being charged over the useful life of the equipment or a use allowance is being charged against the award.

ii.) Title to any property purchased with funds vests to the grant recipient upon purchase, subject to the conditions of this policy.

iii.) The recipient may use the equipment for the intended purposes as long as it is needed for the project or activities, even after the end of the grant period.

iv.) The recipient may make the equipment available to other projects or activities supported by grant funds provided that use does not interfere with the intended use of the equipment for the activities for which it was procured. First priority for the use of the equipment for other activities shall go to other funded programs.

v.) If the recipient charges user fees related to the equipment, these fees must be reported as program income during the life of the grant under which the equipment was purchased.

vi.) The recipient may not use the equipment in a manner that unfairly competes with private companies.

vii.) The recipient shall not use equipment acquired with funds to provide services to other organizations for a fee that is less than fair market value for equivalent services for as long as the SOA retains an interest in the equipment.

viii.) If, after the grant period, equipment purchased with funds is no longer needed for its intended purposes or for other activities supported by DBP, the following requirements apply:

(1) If the equipment has a current per-unit fair market value of $5,000 or more and a remaining useful life of one year or more, it may be retained or sold. If the equipment is sold, the SOA must be compensated for its share of the proceeds from the sale. This share is determined by multiplying the current market value or the proceeds by the SOA share of the original acquisition cost of the equipment. SOA may take title or dispose of the equipment if the recipient does not take appropriate action.

(2) If the equipment has a current per-unit fair market value of less than $5,000 or a remaining useful life of less than one year, the recipient may keep, sell or dispose of the equipment with no obligation to the SOA.

(3) If the recipient anticipates award of a subsequent DBP grant in which the equipment could be used, the recipient may make a written request to DBP to retain the equipment for the anticipated grant.

ix.) If the equipment is retained by the grant recipient, the grant recipient must report the equipment's current fair market value in its financial statements each year until the equipment is fully depreciated.

(1) Recipients must maintain appropriate documentation that verifies the value of the equipment at the time it is no longer needed for grant related purposes. Documentation must be maintained for a period of six years following the fiscal year of the grant closeout, or six years following resolution of any grant audits, litigation, or other unresolved matters, whichever is later.

(2) DBP retains the right to take title to equipment purchased withgrant funds or to direct the transfer of title to a third party. If DBP requires transfer of the equipment to itself or another entity, DBP will reimburse the recipient for the reasonable costs of completing the transfer.

c) Expendable, Tangible Personal Property – Supplies

i.) For the purposes of this policy, supplies may include expendable tangible personal property with a per unit value of less than $5,000, and can include such items as personal computers, printers, other office equipment and furniture, as well as business and training supplies.

ii.) Upon acquisition, title vests with the recipient for supplies purchased with funds subject to the conditions set forth in this policy.

iii.) The recipient shall maintain an inventory listing of all supplies with a per unit value of $100 or more that are purchased with funds.

iv.) The recipient must maintain sufficient records to determine the fair market value of unused supplies on hand at the completion of the activities for which it was purchased. The recipient must compensate the SOA for its share of the residual inventory:

(1) If the inventory is $5,000 or more in aggregate value upon the completion of the activities; and

(2) If the supplies are not needed for any other DBP sponsored programs or projects.

v.) Supplies are not to be used to provide services for a fee that is less than that charged by private companies for equivalent services As long as the SOA retains an interest in the supplies.

d) Construction Training Activities

i) Construction related training that results in the construction or fabrication of items, including buildings or other tangible property, using federal or state grant funds with a total cost of $5,000 or more per unit that are not sold or otherwise disposed of during the term of the grant project must be reported on the Property Inventory Listing form provided by the Division at grant close-out (see also Article 11 of this attachment).

ii) The Division will retain interest in the items or buildings retained and sold or disposed of after the close of the grant.

iii) If the recipient anticipates award of a subsequent DBP grant in which the items, buildings, or other tangible property could be used, the recipient may make a written request to DBP to retain the equipment for use in the anticipated grant. If the items, buildings, or other tangible property are sold during the period of the subsequent grant, the proceeds must be counted as program income for the grant during which the items, buildings, or other tangible property were sold.

e) Intangible Personal Property

i) Copyrights

(1) The grant recipient may copyright work developed, or for which ownership was purchased, under an award. DBP has and retains a royalty-free, non-exclusive and irrevocable right to reproduce, publish and otherwise use and authorize others to use the work for training purposes.

(2) When such property is developed with the use of grant funds, it is to be made available to any DBP grant recipient requesting to use copyrighted materials without a licensing fee. Incidental costs of packaging, shipping, handling, etc., may be charged.

(3) If the property was developed without using grant funds but will be used for other grant funded activities, the developing organization may charge a license fee. The income realized from the sale or licensing of copyrighted materials is not considered program income unless specified in the DBP grant agreement

(4) For the purposes of this policy, DBP maintains a royalty-free, nonexclusive and irrevocable right to reproduce, publish and otherwise use and authorize others to use for state or federal purposes any copyrighted work produced or purchased, in whole or in part, with grant funds.

ii) Inventions and Patents – DBP does not anticipate that any patents or inventions will be associated with DBP grant funds.

iii) Data – For the purpose of this policy, DBP has the right to obtain, reproduce, publish or otherwise use data first produced with grant funds and to authorize others to do the same for state or federal purposes.

iv) Title, Use and Disposition – Title to intangible property vests with the grant recipient upon acquisition. Use is restricted to the originally authorized purpose, and the grant recipient must follow the provisions for disposition and compensation to the SOA.

f) General Guidance on Leasing

i) Grant recipients of funds should use considerations of economy for making decisions to buy or rent real or personal property. Considerations may differ by property type and according to market conditions.

ii) As described previously in this policy, the construction or purchase of real property is not allowed under DBP grant programs, except in limited circumstances. Permissible leases of real property are limited to operating leases. Capital leases are arrangements that result in the ownership of property and, therefore, are treated by the Office of Management and Budget (OMB) as purchases. As such, funds may not be used for lease payments for capital leases involving real property.

iii) Grant recipients may not charge fair market rent or lease rates to DBP awards for their own real or personal property used in the program. Grant recipients also may not lease from other activities in which they have a vested interest or which has interest vested to them. Recipients may only recover these costs through charging depreciation expense or use allowance to the grant. Office of Management and Budget Circular A-87, Cost Principles for State and Local Governments, and Circular A-122, Cost Principles for Non-Profit Organizations, contain specific requirements used to establish use allowances or depreciation allowances, based on a variety of factors including useful life of facilities and any previous depreciation borne by the federal government. These provisions are found in OMB Circular A-87, Attachment B, Item 15, and in Circular A-122, Attachment B, Item 11. In addition, Circular A-122 addresses capital leases and less-than-arm's length agreements in Attachment B, Item 46, Rental Costs. Similar provisions are found in Circular A-87, Attachment B, Item 38.

iv) A less-than-arm's length lease is one in which one party to the lease is able to control or substantially influence the actions of the other. Less-than-arm's length leases are allowable up to the amount that would be allowed had title vested in the organization as described in OMB Circular A-122, Attachment B, Item 46(c).

v) Grant recipients are urged to carefully review any lease agreement to ensure the lease is in compliance with the applicable requirements.

6) **Responsibilities**

a) As delegated by the Governor and the Commissioner of the Alaska Department of Labor and Workforce Development, the Director of DBP is responsible for approving any purchase of property where prior approval is required and is responsible for approving the disposition of any property purchased or developed, in whole or in part, with grant funds.

b) Recipients are responsible for:

i) Obtaining prior written approval for the purchase of property in accordance with the requirements of this policy;

ii) Obtaining written approval for the disposition of property purchased, in whole or in part, with grant funds in accordance with the requirements of this policy.